

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

THEODORE MICHAEL,

CV F 02 6227 LJO P

Plaintiff,

v.

ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S REQUEST
FOR AN EXTENSION OF TIME (Doc. 83.)

RAYMOND ANDREWS,

Defendants.

Theodore Michael ("plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Pursuant to Title 28 U.S.C. § 636(c)(1), the parties have consented to the jurisdiction of the United States Magistrate Judge.

On January 19, 2005, at 9:00 a.m., this court held a hearing for the purpose of setting a dispositive motion deadline pursuant to the District Court's Order dated December 13, 2004. At this hearing, the court set deadlines for dispositive motions, oppositions, replies, a telephonic trial confirmation hearing and a jury trial.

On January 21, 2005, the Court issued a Scheduling Order setting forth a dispositive motion deadline of February 18, 2005, Oppositions to dispositive motions of March 4, 2005, and Replies due by March 18, 2005. The Court also scheduled a dispositive motion hearing for April 1, 2005, and a Telephonic Trial Confirmation Hearing for June 16, 2005.

On February 7, 2005, plaintiff filed a Motion for Summary Judgment. Defendants filed their Motion on February 18, 2005.

On February 23, 2005, the Court vacated the Telephonic Trial Confirmation Hearing and

Jury trial. Defendants filed their Opposition to plaintiff's Motion for Summary Judgment on March 10, 2005.¹

On March 28, 2005, and April 7, 2005, this Court received a change of address for plaintiff. Also on April 7, 2005, plaintiff moved for an extension of the deadlines set forth in the Court's Scheduling Order dated January 21, 2005.

As noted above, the Court vacated the Telephonic Trial Confirmation Hearing scheduled for June 16, 2005, and the jury trial for July 11, 2005, on February 23, 2005. With respect to plaintiff's request that the Court extend the time for filing an Opposition to a dispositive motion, in this case, the Motion for Summary Judgment, his request is GRANTED. The Court notes that although it did not receive plaintiff's request until April 7, 2005, plaintiff's signature was made on January 31, 2005. Plaintiff requested the extension of time in anticipation of his transfer to another prison outside of California. Accordingly, as plaintiff is entitled to application of the mailbox rule set forth, see, Houston v. Lack, 487 U.S. 266, 276, 108 S.Ct. 2379, 2385 (1988), the Court HEREBY ORDERS:

1. Plaintiff's Request for an extension of time to file an Opposition and/or Reply is GRANTED. The Opposition and/or Reply is due within thirty (30) days of the date of service of this Order.
2. Plaintiff's Request to extend the Telephonic Trial Confirmation and Jury Trial dates are DENIED as moot.

IT IS SO ORDERED.

Dated: April 21, 2005
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/s/ Lawrence J. O'Neill
UNITED STATES MAGISTRATE JUDGE

¹The deadline for the filing of Oppositions to dispositive motions was March 4, 2005. (Court Doc. 57.)